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THE LEGISLATIVE HISTORY OF THE SECOND INCOME-TAX LAW.

On the nineteenth of December, 1893, the House Committee on Ways and Means introduced a bill "to reduce taxation, to provide revenue for the government, and for other purposes." This soon became known as the Wilson bill. About a month later Mr. McMillin, on behalf of the same committee, reported a bill "to impose a tax on corporate and individual incomes, to increase the tax on distilled spirits, and for other purposes."¹ So much of the plan of the committee as sought to make provision against the existing deficiency in the national revenues by "a small tax on incomes derived from certain corporate investments"² had already received the endorsement of the President in his annual message.³

Secretary Carlisle's views accorded more fully with the measures proposed by the committee than did those of the President, for the former favored a tax on legacies and successions⁴ as well as one on the stocks and bonds of corporations.⁵ Very shortly after its introduction, the income-tax bill was incorporated with the tariff bill. By this movement (which was carried through in spite of the vigorous protest of a considerable section of the democratic party from the eastern states) it was attempted to make support of the income tax a test of party fealty. The union of two bills, the one "to reduce taxation," the other "to impose a tax on corporate and individual incomes," seems, at

¹ The wisdom of taxing private incomes had been questioned by Mr. Wilson, the chairman of the committee, and he doubted the ability of the government to thoroughly collect such a tax. The proposal to tax corporate incomes, however, met his full approval.—*North American Review*, January 1894.

² *Congressional Record*, 53. Congress (second session), p. 9.

³ The President had commended the plan of the committee even before it was reported.

⁴ Legacies and successions were regarded as income by the committee.

⁵ *Report of the Secretary of the Treasury*, 1893, p. lxxxii.

first sight, a little strange, and needs, perhaps, a word of explanation. Senator Pepper claimed¹ the two bills were combined at the dictation of the populists in the House and that this union of the two measures was the price paid for permission to proceed with the consideration of the tariff bill.² As no provisions of the combined bill were more zealously supported by the democrats (with some few exceptions) than were the sections providing for the taxation of incomes, this explanation seems quite gratuitous, the more so when it is recalled that the democrats were greatly in the majority in the House and were fairly united on the question of tariff reform.

Aside from the possibility that the combination of these two bills was forced upon the democratic party, the mere fact of their union is unimportant. The significant consideration is the introduction by the Committee on Ways and Means and the passage by Congress of a measure providing for the taxation of incomes in connection with the new tariff bill. Why did the democratic party, in reforming the tariff, resort to the income tax? Was it an adventitious measure having no logical connection with the new tariff bill, or did it have some necessary relation with the ideas of tariff reform as they were conceived by the democratic party of the Fifty-third Congress? This is the vital question suggested by the union of the two bills, and the answer to this question will be sought in the debates. They alone disclose the real reasons why the income tax was so intimately associated with the new tariff. They also show clearly and conclusively how radically the democratic party has changed its position on the question of federal taxation.

From its inception the democratic party had been hostile to internal taxation, but in the second session of the Fifty-third Con-

¹ *Congressional Record*, p. 4585-2.

² The democrats, however, may have hoped by this maneuver to force some of their own members who were opposed to the income tax, but who favored tariff reform, into voting for the former, and, moreover, had it not been united with the tariff bill the income tax might have been shelved during the debate upon that tariff and its discussion deferred until so late in the session as to make its proper consideration impossible. This contingency was rendered impossible by the combination of the two bills.

gress it abandoned the traditional policy to which the party had steadily adhered for a century and became the advocate of such taxation.

The full import of this change of position can only be comprehended when it is understood that by this bill the democratic party undertook to collect in a time of profound peace the major portion of the public revenues by internal taxation.¹

The new position thus assumed on the question of national taxation necessitated a far-reaching and radical change of attitude on constitutional questions. Under this act the federal government not only deals directly with the people of the states but, as the supreme court has decided, it even imposes taxes upon the instrumentalities of the states themselves. It is quite remarkable that practically no constitutional objections were raised against the bill by the congressmen representing that portion of the country which had been traditionally hostile to any encroachment on the rights of the states by the federal government.

Senator Hill declared:² "No such federal aggrandizement was ever projected . . . no such insidious and deadly assault upon state rights, state powers, and state independence, as a federal income tax." Senator Hoar of Massachusetts, in the same strain pronounced the³ "income-tax scheme the most con-

¹ Senator Voorhees, chairman of the Finance Committee, in presenting the tariff bill to the Senate, submitted an estimate of the expenses of the government for the fiscal year 1895. The various items made a total of \$451,399,485.33. "To meet the appropriations made necessary by the foregoing estimates, I here place before the Senate," said he, "the estimated revenues which are expected to accrue under the provisions of the bill now before us:"

Internal revenue under the present law	-	-	-	-	\$160,000,000
Additions made by the pending bill:					
Income tax	-	-	-	-	30,000,000
Spirits	-	-	-	-	20,000,000
Cards	-	-	-	-	3,000,000
Customs	-	-	-	-	163,361,000
Miscellaneous	-	-	-	-	20,000,000
Postal	-	-	-	-	84,427,766
Total	-	-	-	-	\$480,788,766

—*Congressional Record*, p. 4157.

² *Ibid.*, p. 4351.

³ *Ibid.*, p. 7837.

spicuous, far-going, drastic, sweeping assertion of national power against state power, state interest, and state functions which can be found in our legislative history." In no small measure were these charges true, yet this proposed interference on the part of the central government with the autonomy and independence (if these terms may be used) of the states provoked but isolated protestations from those who had been wont to guard with a jealous eye the rights of the states. It is but slowly that the mind can comprehend how the followers of Jefferson, Calhoun, and Benton could consent to the imposition of a tax on the bonds of the states. A radical change of position on constitutional questions was, however, clearly seen to be a necessity if the programme of tariff reform was to be fully carried out and its results permanently secured. And a more sudden and complete shifting of position by a great political party has seldom been witnessed. Tariff reform as understood by the democratic party of the Fifty-third Congress made an income tax a necessity. The debates, it is thought, will fully substantiate this interpretation.

It has been quite frequently said that the necessities of the treasury fully account for the introduction of the income tax. The debates, however, show that the needs of the treasury had little to do with it. The income tax was not regarded primarily as a fiscal measure. Little was known as to how much it would yield and apparently no one cared very much to know.¹ Almost a year and a half was to elapse from the time of its introduction before its first fruits would flow into the treasury. It could not therefore have commended itself because of its efficiency as an instrument for the immediate relief of the treasury.

Not only has it been generally believed that the exigencies of the treasury explain the adoption of the income tax but it has also been widely supposed that it was embraced as a temporary

¹ "The Commissioner of Internal Revenue made an estimate, based on our present population and wealth as compared with that of the period embraced under the former income-tax law, from which he estimates that on individual incomes there would be a yield of more than \$30,000,000 at a tax rate of 4 per cent. . . . 2 per cent. would yield one-half of this amount."—Report of the Committee on Ways and Means, 53. Congress, second session, *Report No. 276*.

expedient to meet a temporary deficit. Consequently it has not been quite understood why a tax so different in its nature from any in existence and necessitating the establishment of some new machinery for its collection should have been resorted to. But perhaps the tax was not regarded as a temporary measure although its introduction was occasioned by a deficiency supposedly but temporary. This point is worth more careful attention. Secretary Carlisle in his annual report for the year 1893 estimated that there would be a deficit for the fiscal year ending July 1, 1894, of \$28,000,000. This estimate was based upon the expected yield of the tariff under the changes about to be proposed by the Committee on Ways and Means. It was necessary that some provision should be made for this expected deficit. But why (the query at once arises) was the income tax resorted to for this purpose? The democratic party had never favored such taxes in its platforms,¹ nor had it advocated them in a national campaign.

The populists of the parties represented in Congress had thus far stood alone in their approval of an income tax. The threatened deficit was the pretext for, but was it the real cause of the reimposition of this abandoned tax? And, it is again asked, was it intended merely as a temporary resource?

The President in his message said: "I am satisfied that the reduced tariff duties provided for in the proposed legislation, added to the existing internal revenue taxation, will, in the near future, though perhaps not immediately, produce sufficient revenue to meet the needs of the government."² Secretary Carlisle was not quite so sanguine, for he thought it would be necessary to collect, during the fiscal year 1895, \$50,000,000 additional revenue by the imposition of new taxes under the internal reve-

¹ That a decided change had, however, come over the democratic party was clearly manifested in the national convention of 1892. The platform as originally reported to the convention contained (as did that of 1884) the following declaration: "From the foundation of this government, taxes collected at the custom house have been the chief source of federal revenue. Such they must continue to be." These sentences were stricken out by the decisive vote of 564 to 342.—STANWOOD'S *History of Presidential Elections*, p. 468.

² *Congressional Record*, p. 9.

nue system.¹ To meet the expenditures for the fiscal year 1895, he recommended that additional taxes be imposed upon distilled spirits, cigars, and cigarettes, and also that new taxes be levied on playing cards, cosmetics, and perfumeries, legacies and successions, as well as on incomes derived from investments in stocks and bonds of corporations and joint-stock companies.² The President as has already been observed was satisfied that the reduced tariff duties provided for in the proposed legislation added to the existing internal-revenue taxation would soon yield sufficient revenue to supply the needs of the government if economically administered.³ The Secretary furthermore proposed to meet the temporary deficiency by the sale of bonds. The contemplated revision of the tariff according to his estimates would entail a loss of revenue for the fiscal year 1895 of about \$50,000,000, which he proposed to make good by increasing existing rates in the internal revenue system and by adding some new taxes. But he did not suggest as the President had done that the new taxes should be merely temporary. They formed a necessary part of his scheme.

The expectations of the Committee on Ways and Means will next be examined. On presenting the income-tax bill on behalf of this committee Mr. McMillin was questioned by Mr. Coombs⁴ as to whether the committee had any positive assurance that the various sources of revenue would yield a sufficient amount to meet the necessities of the government. Mr. McMillin admitted that on the face of things there would still be a deficiency, but he added that the committee believed the revenue would increase

¹*Report of the Secretary of the Treasury*, 1893, p. lxxxii.

²*Ibid.*, p. lxxxii.

³The views of the chairman of the Committee on Ways and Means, Mr. Wilson, seem to have accorded with those of the President, as is evidenced by the following quotation taken from an article published in the *North American Review* about the time of the introduction of the income-tax bill. "A democratic administration must . . . confront . . . the always unpopular duty of providing some new subject of taxation, not only to carry us through the existing crisis, but as a reliance for the few years during which our customs revenue may be lessened by the proposed reform of the tariff."—*North American Review*, January 1894.

⁴*Congressional Record*, p. 2791.

on the revival and extension of business as a result of the beneficial legislation which it was proposed to enact. Now as the committee did not expect, even when a revival of business took place, that the receipts would exceed the expenditures they could not have looked forward to the speedy repeal of the new taxes. The (Senate) Finance Committee obviously did not regard the income tax as a temporary measure to meet an expected deficit, for Senator Voorhees declared that "the criticism which assailed the tariff bill as it came from the House because it created a deficiency in the treasury no longer applied,"¹ for the bill reported by them would yield a surplus of \$29,389,245. As it was not expected the income tax would yield over \$30,000,000 it could have been dropped by the Senate without embarrassing the government. In the Senate it could not be urged as it had been in the House that the income tax was necessary to support the government, and thus the question at once arises: why was it not abandoned when it became clearly unnecessary from a fiscal point of view? Senator Hill pointedly objected to the tax because "it was not advocated as a temporary expedient but boldly proposed as a permanent policy of the government."² It was designed as a permanent tax, said he, for the Ways and Means Committee of the House as well as the House itself and the Senate Finance Committee refused to definitely limit its continuance.

If not designed as a temporary expedient, the all-important question is: why should this particular tax have suddenly commended itself to the democratic party to such an extent as to find a permanent place in their financial system? Why should it suddenly have been so intimately associated with tariff reform? Tariff reform had always been a distinct issue, but now it was made to travel hand in hand with the income tax. A new party creed had suddenly been drawn up to which all the faithful were expected to subscribe, and notwithstanding the novelty of the doctrine most of them complied without apparent reluctance.

¹ *Congressional Record*, p. 4157.

² *Ibid.*, p. 4349.

Some few however denounced the new gospel as heretical and were in consequence regarded as apostates. Senator Hill, who was considered the chief of the deserters, protested against the betrayal of the ancient faith and denied the authority of the democratic Congress to make new party doctrine, as he regarded this the particular privilege of the representatives of the party duly assembled in national convention. Now let us return to the questions just raised. Why should the income tax now be so closely associated with tariff reform as to be made a part and parcel of the tariff reform bill? Why should the democratic party have come to regard it as a necessary and permanent part of their revenue system? Some light is thrown on these perplexing questions by the debates, and in them we shall now seek the solution of our difficulties. During the campaign of 1892, the inequalities of the McKinley tariff were denounced throughout the length and breadth of the land by the democratic party. The people showed their disapproval of the republican policy by placing the government in the hands of the democrats. The extra session of the Fifty-third Congress was almost wholly devoted to monetary matters. But in the second session an attempt was made to redeem the pledges made to the people in the campaign of 1892. As a preliminary to the revision of the existing tariff, its inequalities were again exposed. The President however had become somewhat conservative, for in his message, after insisting on tariff reform, he said, "We cannot close our eyes to the fact that conditions have grown up among us which in justice and fairness call for discriminating care in the distribution of such duties and taxation as the emergencies of our government actually demand."¹

Possibly he feared that the radicals in Congress might go to extremes and simply intended this utterance as a caution. The secretary of the treasury, however, did not show the same solicitude for the vested interests. In his report he offered suggestions to Congress as to the best means "to secure, as far as possible, equality in the distribution of the burdens of taxation,

¹ *Congressional Record*, p. 9.

and [how to] avoid, as far as possible, the taxation of one citizen for the benefit of another, or of one class for the benefit of another.”¹ Not only was it again and again asserted in the debates that one class of citizens was being taxed for the benefit of another but it was also maintained that the poor paid more in proportion to their ability towards the maintenance of the government than did the rich. It was claimed that the people of the South and West were exploited under the existing tariff law by the manufacturers of the East. Said Mr. McMillin, in introducing the income-tax bill: “We will not deserve that continued support that the American people have given the democratic party if we do not come resolutely to the discharge of duty and determine, whatever else occurs, robbery shall no longer be carried on by operation of law.”² And a little later in the same speech he said: “We will reduce this tariff to a revenue basis; we will impose taxes for public purposes and not for private gains or to enable some individuals to accumulate private fortunes at the expense of others.” Senator Voorhees, chairman of the Senate Finance Committee, declared “the protective system of tariff taxation . . . a system of indescribable injustice and oppression.”³ And later on in the same speech he made the assertion that “the income class . . . is mainly the illegitimate offspring of government paternalism and government support.”⁴ Innumerable citations of the same character could be made, but as these are the charges which the democratic party has preferred against the protective tariff during the past quarter of a century it will be presumed that more are unnecessary.

Not only was the existing tariff denounced as unjust but it was maintained (and this point is to be noted as it marks an important change of position on the part of the democratic party) that any system which imposes taxes exclusively on consumption is bound by its very nature to be unequal. This, it was

¹ *Report of the Secretary of the Treasury*, 1893, p. lxxviii.

² *Congressional Record*, p. 2788.

³ *Ibid.*, p. 4156.

⁴ *Ibid.*, p. 4163.

asserted, necessarily followed from the fact that incomes moderate in amount are as a general thing spent for articles of consumption, while the large incomes are only to a limited extent expended for such articles. On this point Mr. McMillin said, in presenting the income-tax bill: "Let us look about and see whether that 'equal and exact justice' which Jefferson laid down as one of the cardinal principles of government is being administered. We will take, for instance, a man with an income of \$500,000, and we will take another with an income of \$20,000. They both wear the same kind of clothes; they require about the same. They both eat about the same kind of food; they both require about the same. Therefore, they both pay the same taxes to the government, because taxes are to be paid upon what they consume! There is \$500,000 in the hands of one man that is not taxed any more than the \$20,000 in the hands of the other. Is this right? Is it justice?"¹ Mr. Lane of Illinois also took the ground that taxes upon consumption did not properly distribute the burden, "for," he said, "under this system of indirect taxation the amount which each individual contributes to the expenses of government is regulated solely by his consumption of the articles taxed, and can be, and is, in no way apportioned according to his ability to pay the tax."² "The man who owns \$10,000,000," said Senator McLaurin of Mississippi, "would have to consume \$2,000,000 worth of dutiable goods before he would pay a tax in proportion to the man who owns \$1000 and consumes \$200 worth of dutiable goods. So that, each paying taxes on the value of the dutiable goods he consumes, as the rich do not consume that value of dutiable goods in proportion to their wealth that the poor are compelled by their necessities to consume, it follows, as the day follows the night, that the rich do not pay their proportionate share of the revenue."³ "The wealth of this country," reported the Committee on Ways and Means, "amounts to more than \$65,000,000,000, and the

¹ *Congressional Record*, p. 2791.

² *Ibid.*, p. 2311.

³ *Ibid.*, p. 4682.

question arises whether it is not just and fair that a portion of this money should be raised by a tax on the earnings of wealth instead of imposing it all, or nearly all, on consumption. The committee believe that it is eminently just and proper that the amount proposed by this bill should be collected from a tax on incomes instead of placing all of it on the necessities of life, which are consumed by all, but are not used in proportion to their ability to pay taxes, but according to the necessities of existence."¹

It naturally followed from this new position assumed by the democratic party on taxation that a return to taxes on the so-called revenue articles was an impossibility. If the then existing system were unjust, a system which would impose taxes upon sugar, coffee, tea and other necessities of life would exaggerate this inequality. It was desired to lift the burdens of national taxation from the articles of general consumption and not merely to shift them from one article to another. Mr. McMillin put this issue squarely to the House when he said: "How are you going to supply this deficiency [of \$75,000,000] if not by taxing incomes? Will you place a tax on tea in order to get it off incomes? Would you put it on coffee for the purpose of letting these escape? Would you leave it on woolen goods or raise the tax on woolen goods to an average of more than 200 per cent., being now more than 98 per cent., that all incomes shall go without the imposition of any tax? When it comes to a proposition either to retain or increase the present

¹ Committee on Ways and Means, 53. Congress, second session, *Report No. 276*, p. 3.

Senator Teller took the same position in declaring "a tax upon consumption and consumption alone does not properly distribute the burdens of taxation among the people."—*Congressional Record*, pp. 7887.

Senator Hill frankly admitted that the system of tariff taxation by itself was not just, but insisted that national taxation must be considered in connection with local taxation. "The rich man," said the Senator, "who owns the houses and lands, pays state, county and municipal taxes thereon according to their value, and he pays his tariff taxes besides upon whatever he consumes. The poor man, however, who owns no property of course pays no state, county, or municipal taxes, but simply his tariff taxes. If income taxes should be substituted for tariff taxes then the poor man would pay nothing, either to the state or local or national government."—*Congressional Record*, pp. 7822-7824.

high protective rates, or levy a tax upon incomes, I do not hesitate what I shall do. I do not for a moment parley about whether it shall be placed upon the incomes or be kept upon the necessities of life."¹

The principal considerations have now been presented which led the democratic party to partially abandon taxes upon consumption. As has been stated, it was asserted that taxes falling exclusively upon consumption were bound by their very nature to be unequal.² From this position it followed as a matter of course that a system which would impose heavy duties upon the so-called revenue articles would be regarded as even more unjust. The strong desire to relieve from taxation the articles of general consumption induced the democratic party, in the face of all its traditions, to resort to some form of internal taxation. The income tax was adopted because it was believed that it would in some degree bring about justice in taxation, and by its imposition it was hoped to compel wealth to contribute its proper portion to the maintenance of the federal government.³ In harmony with this general desire, Secretary Carlisle declared in his annual report that "when the necessities of the government compel it to resort to additional sources for procuring revenue, it is but fair that it should make its requisitions mainly upon those whose possessions are of such a character as to enable them to escape, wholly or partially, the general burdens of taxation, rather than upon those who are already taxed substantially to the extent of their ability to pay."⁴ Not only, said he, does capital in the form of money, bonds and other evidences of debt escape national taxation, but it does not, by reason of its intangible and transitory nature, even bear its fair proportion of

¹ *Congressional Record*, p. 2790.

² After the Senate reimposed the taxes upon consumption which were removed by the House, the retention of the income tax became a greater necessity if equality in taxation was to be gained.

³ Perhaps it was the desire of some members of Congress to force wealth to contribute more than its proper share. The discussion of this point will, however, be deferred.

⁴ *Report of the Secretary of the Treasury*, 1893, p. lxxxiii.

the burdens of local taxation as compared with real estate and visible personal property. Mr. McMillin announced that "the Committee on Ways and Means believed that the time had come when the American people ought to impose some of the burdens of taxation upon the accumulated wealth of this country."¹ And later in his speech he declared that "the committee believed that by the income tax many who have heretofore not contributed their just proportion of taxes to the support of the government will be required to do so."² Said Senator Roger Q. Mills,³ the American people "intend that the wealth of this country shall contribute its just share . . . to the support of the government."⁴

The supporters of the income tax did not, however, believe that by its passage "equal and exact justice" would be established in national taxation. It was regarded merely as a partial corrective of the inequalities of tariff taxation and, as but a small portion of the national revenue was to be secured through its instrumentality, its power as a corrective was not considered as very far-reaching. Mr. McMillin declared the income tax was but a proposition "to make the wealth that is accumulated in this country pay some share of the expenses of the government."⁵ "It was not attempted," said Mr. Bryan, "to equalize the burdens, but merely to partially equalize them."⁶ Said Senator Walsh of Georgia, "the income tax offers to the rich the opportunity to assume a fairer proportion of the expenses of govern-

¹ *Congressional Record*, p. 2789.

² *Ibid.*, p. 2796.

³ *Ibid.*, p. 5045.

⁴ Senator Peffer declared in the same strain, but with more emphasis, "We propose to equalize taxation as far as it is possible to do so, and we propose to make the wealth of the country bear its just and fair proportion of the taxes of the country" (7840). "Natural conditions, political conditions, legislative conditions, all conspired to build up New England, and now," continued the Senator, "we want New England to respond when we ask her for a little extra money with which to run the machinery of the government, and if New England does not respond we shall see whether we cannot compel her to do so."—*Ibid.*, p. 4588.

⁵ *Ibid.*, p. 2789.

⁶ *Ibid.*, p. 1920.

ment.”¹ Senator McLaurin of Mississippi declared that “to make some approach toward equality the income tax was proposed.”² Mr. Lane of Illinois maintained that “even under the income tax, wealth does not yet bear its fair proportion of taxation.”³

Some of the more radical advocates of the income tax regarded it merely as an entering wedge by which wealth would ultimately be forced to contribute its due share to the support of the government. In the opinion of Mr. Kem, a populist representative from Nebraska, “the bill was defective principally because it did not raise a greater amount of revenue. It ought to raise at least \$100,000,000 annually,”⁴ said he. Mr. Lane of Illinois thought that “wealth was not yet made to bear its fair proportion of taxation. We should have a graduated income tax that would yield yearly nearly \$100,000,000 and not \$30,000,000, as is provided in the bill which we are about to pass.”⁵ The radicals were satisfied for the time being with the establishment of a policy from which they hoped for more in the future. “The main thing,” as Mr. Breckenridge of Arkansas expressed it, “was to effect a landing of the policy.”⁶ These men voted for the income tax not because it fully satisfied their desires but for the reason that it was the best measure that could be obtained at that time.

The populists, although they gave their support to this bill, did not lose the opportunity of placing themselves on record as advocating the progressive income tax. On January 30, Mr. Pence announced⁷ that he had been authorized by the populists of the House (ten in number) to present a graduated income tax, which he would offer as an amendment to the bill presented by the Committee on Ways and Means. This amendment proposed to exempt all incomes below \$2500 and then would impose rates varying from 1 to 5 per cent. While the debate upon the

¹ *Congressional Record*, p. 6441.

⁵ *Ibid.*, p. 2315.

² *Ibid.*, p. 4682.

⁶ *Ibid.*, p. 2718.

³ *Ibid.*, p. 2315.

⁷ *Ibid.*, p. 4629.

⁴ *Ibid.*, p. 2377.

income-tax section was in progress in the Senate, Mr. Pepper¹ offered an amendment which if adopted would have made the income tax a progressive one. His amendment would have placed the exemption at \$1000. His lowest rate was also 1 per cent. and his highest 5 per cent.²

Attention has been directed thus far merely to the predominating motive which impelled the majority in Congress to reimpose the income tax. There were, however, numerous minor considerations, some of them of very great importance, which contributed not a little to its popularity, although in themselves they probably had little effect upon the votes. Of these lesser considerations, undoubtedly the most important was felt to be the elasticity which the tax would impart to the revenue system, and this flexibility was to be gained without the disturbance of business, which was emphasized as a most desirable feature. Said Mr. Hall of Missouri, "the flexibility of the income tax is one of the greatest arguments in its favor. I do not believe that any party . . . wants to see the business interests of this country hazarded and the obligation of contracts impaired by changes in the tariff every two or four years."³ The tax commended itself to Mr. Dinsmore of Arkansas for the same reason. "It is flexible," said he, "easily changed from time to time in accordance with the necessities of the government for revenue; and these changes can be accomplished without affecting the business interests of the country."⁴ "The income tax," said Mr. Williams of Mississippi, "has been the elastic feature of British taxation, the one thing which varies while other things, the alteration of which would disturb business interests, remain stationary."⁵ "By making our tariff laws what they should be," reported the

¹ *Congressional Record*, p. 7839.

² The progressive income tax seems to have had a peculiar fascination for Mr. Coffeen of Wyoming, for he not only favored its adoption but announced that the tariff duties ought to be reduced until every man, woman and child was forever freed from tariff taxes. As rapidly as this was accomplished, he would substitute a graduated income tax for the abandoned tariff tax.—*Ibid.*, p. 2154.

³ *Ibid.*, p. 1885.

⁴ *Ibid.*, p. 2194.

⁵ *Ibid.*, p. 1913.

Committee on Ways and Means, "and imposing an income tax to raise a portion of the revenue, it will be possible to raise or lower this tax to meet the requirements of the treasury and avoid the necessity of changing the rates that affect our industries so frequently. Stability will help our manufacturers most. The taxes ought to be so placed that it will not be necessary to either issue bonds or change tariff rates with every fluctuation of the revenue."¹ Said Mr. Tarsney of Missouri, "There is another feature of this subject which I would discuss and which presents itself with unanswerable force. Incorporate it with your present revenue laws, and you have between your internal-revenue system and your tariff system an easily adjustable lever to preserve an equilibrium between the revenues and the expenditures of the government without injurious disturbance of the commercial or industrial conditions of the country."²

The elasticity of the income tax, as has already been suggested, was also very intimately associated with the stability of the tariff, should it be reformed. In introducing the bill Mr. McMillin made much of this relation. It alone, he held, would give permanency to the reformed tariff by the introduction of an elastic element into the revenue system. The expenses of the government,³ said he, are quite uniform, and they cannot be diminished to any great extent, however reduced the national revenues may be. But tariff taxes fluctuate greatly in the amount of revenue they yield. The government is thus confronted with a fairly constant expenditure which it must meet with a fluctuating revenue. Rates which would yield a sufficient revenue in times of depression would return a large surplus in times of prosperity. Consequently, "without the supplement of a direct tax," argued Mr. McMillin, "the tariff if reformed can have no permanency. Each panic or stringent money market which largely reduces

¹ Report of Committee on Ways and Means, 53. Congress, second session, *Report No. 276*, p. 7.

² *Congressional Record*, p. 2309. For more remarks of a similar character see LANE, p. 2315; COFFEEN, p. 2154; GOLDZIER, p. 2438; BRECKENRIDGE, of Arkansas, p. 2718; McMILLIN, p. 2793

³ *Ibid.*, p. 2793.

receipts will require the imposition of increased tariff taxes. When there is no internal tax on which to build, it will be raised by imposing additional duties. And it may be only a question of time when you get back to the former tariff rates.”¹ That the firm establishment of the income tax would give stability to the tariff if reformed was also seen by a few other persons and urged as a reason for its incorporation into the revenue system.²

The tax was advocated for still other reasons, with the simple enumeration of which, however, we must be content. The introduction of a direct tax into the revenue system, it was urged, would make the people conscious of the fact that they were paying taxes, and this it was believed would bring about a closer scrutiny of the expenditures of the government and the acts of officers, which would result in the discouragement of extravagance and corruption.³ By its enactment it was hoped to interest the manufacturing states in enforcing economy, for they would pay a large portion of this tax. They would no longer be, as they are now, directly interested in encouraging extravagance, because a large expenditure would assure the continuance of the protective tariff duties which bore lightly upon them, but from which they derived great profit.⁴ And, finally, it was claimed that it could be collected more cheaply than any other tax.⁵

Up to this point nothing has been attempted but the presentation of the reasons which induced the democrats of the Fifty-third Congress to adopt the income tax as a part of the revenue system. This feature of the new tariff bill received from both its supporters and its opponents the attention which its novelty

¹ *Congressional Record*, p. 2794.

² On this point see also Report of Committee on Ways and Means, 53. Congress, second session, *Report No. 276*, p. 7. TARSNEY, *Congressional Record*, p. 2309. HALL, *Ibid.*, p. 1885.

³ WILLIAMS, *Ibid.*, p. 1912. LANE, *Ibid.*, p. 2315. GOLDZIER, *Ibid.*, p. 2434.

⁴ McMILLIN, *Ibid.*, p. 2794. WILLIAMS, *Ibid.*, p. 1915.

⁵ Report of Committee on Ways and Means, 53. Congress, second session, *Report No. 276*, p. 7. COFFEEN, *Congressional Record*, p. 2154. WILLIAMS, *Ibid.*, p. 1915.

seemed to warrant. No other part of the bill received on the one hand such unstinted praise and on the other hand such wholesale condemnation; its friends were most extravagant in their praises and its enemies were equally lavish in their denunciations; the one party lauded it for its justice, the other denounced it for its injustice. It was asserted by its advocates that the tax more nearly approximated to justice than any other that could be imposed, and thus far this assumption has in no way been questioned. The arguments which were advanced in support of this contention will now be examined. Possibly it will be found that the tax was regarded as a just tax for somewhat diverse reasons. And it will be interesting from a scientific point of view to discover what our lawmakers regarded as the measure of taxation. And possibly this investigation may more fully disclose the animus which prompted the introduction of the tax into the revenue system. It will be found that no less than a half-dozen different criteria were advanced as forming the proper tests according to which contributions should be made to the support of the government. It would hardly be an exaggeration to say that some of the speakers offered this number in the delivery of a single speech—yes, in a single paragraph. Of the various theories advanced the protection theory was by long odds the favorite one. The prevailing idea was that as the revenues of government are expended in the protection of life and property those having the most to protect should pay the most. Mr. Roger Q. Mills gave this theory his support in holding that “one’s proper share [of taxes] is to be determined by the amount that he has to be protected by the strong, organized power of the government.”¹ Senator Voorhees also favored this theory, as he regarded taxes as a payment “for government care and protection against lawlessness.”² Mr. Tarsney is also to be ranked among those who regarded protection as the measure of taxation. To completely remove all suspicion of socialistic motives he said: “The friends of this measure do not base it

¹ *Congressional Record*, p. 5044.

² *Ibid.*, p. 4104.

upon any such theory as that the possessors of wealth should be taxed differently from other citizens simply because they are better provided with the means of meeting and supporting the burdens of taxation. This would be communism."¹

Many of those who denounced the protective tariff for the alleged reason that it enabled the few to accumulate wealth at the expense of the many favored the income tax because it would largely fall upon the people of that section of the country which was thought to have reaped in a peculiar degree the benefits of the protective system. They may be said to have regarded special benefits as the basis of the taxation. Ability to pay taxes as constituting the proper basis of taxation found many adherents, but just what constituted ability was very seldom clearly stated. Mr. McMillin, to whom Senator Hill ascribed the authorship of the income-tax proposition, evidently regarded income as the proper test of tax-paying ability. "For," he said, "it [the income tax] is an effort . . . to require each citizen to contribute to the government in proportion to what he has. As you have prospered so pay."² Some few congressmen were of the opinion that justice in taxation could only be secured by equality of sacrifice. This ground was taken by Mr. Williams of Mississippi, who held that "equal sacrifice is equal taxation; unequal sacrifice is unequal taxation."³ This position was also assumed by Mr. Lane of Illinois, in saying "taxation under Mr. Wilson's rule, and under the plainest principles of justice, should mean an equality of sacrifice."⁴

It would naturally be expected that the leaders of the populist party (self-styled "the party of advanced ideas") would take a scientific position upon this point, for they maintained that justice in taxation could only be secured by the passage of the progressive income tax. It will thus be interesting to discover upon what grounds this tax was supported by them as the most just tax. As Senator Pepper may be considered a good representative of the party, his views on the proper measure of taxation will be

¹ *Congressional Record*, p. 2308.

³ *Ibid.*, p. 1912.

² *Ibid.*, p. 2793.

⁴ *Ibid.*, p. 2311.

presented *in extenso*. "The poor man," said the Senator, "stands ready to protect the person and property of his rich neighbor. He has always done so, and he will always do so. Therefore, let his rich neighbor bear the heaviest part of the taxes."¹ This quotation put in its simplest form results in the proposition that the rich man ought to pay the heavier taxes because his person and property are guarded by the poor man. This is certainly a novel basis of taxation. But a few pages later in the same speech the Senator asserted, "because you are rich . . . for that very reason you have more property to protect, and you ought to pay more taxes."² Protection by the government has now become the basis of taxation. "We, the populists," declared Mr. Pepper, "believe in a graduated income tax, not simply that the man who earns a small income shall pay the same percentage that the rich who earns an enormously large income, but for reasons which I tried to explain yesterday we believe that every man ought to pay according to his ability. If the section hand, for example, has managed to save out of his yearly income \$10, and the clerk in the bookstore or in the bank saves \$100, the clerk ought to pay ten times as much tax as the section hand, because his net income, over and above his labor, is ten times as much."³ This paragraph is somewhat difficult of comprehension, but the Senator now appears to regard ability as indicated by savings as constituting the proper measure according to which one should contribute. One would, however, expect an advocate of progressive taxation to declare the second person able to pay more than ten times as much as the first. In a speech delivered at a later time the Senator in explaining his position declared: "Those of us who favor the graduated system of taxation believe that persons ought to pay for the support of the government in proportion to their means, that the poor man whose income does not exceed \$1000 ought not to pay as much in proportion to his income as the man whose income exceeds \$100,000 should pay, for the power and influence of a man whose income is \$100,000 is a thousandfold

¹ *Congressional Record*, p. 4576.

³ *Ibid.*, p. 4585.

² *Ibid.*, p. 4588.

greater than that of the man whose income is \$1000.”¹ Power and influence have now been advanced as forming the basis of the progressive income tax. The criteria according to which men should contribute to the support of the government as advanced by Senator Peffer have not yet been exhausted. He seemed to labor under the impression that just as he piled up the bases of taxation he in logic firmly established the progressive income tax. Still other quotations could be given advancing other bases, but it is thought enough have been presented to show that the basis of the progressive income tax as scientifically understood was not in the mind of Senator Peffer when he addressed the Senate.

Of the numerous objections raised to the passage of the income tax probably none was urged with greater persistence than the imputed socialistic character of the tax. It was frequently claimed that it was introduced by the Committee on Ways and Means in response to the demands of the radical element of the South and West, and it was viewed as a part of the general movement against wealth which if yielded to would ultimately mean the spoliation of the rich. If the concession embodied in the income tax were granted, it would not, it was asserted, satisfy the radicals—it would simply encourage them to demand more in the future. Several of the eastern members of Congress never wearied in stigmatizing the tax as a sop to socialism. The supporters of the tax vigorously denied these imputations and insisted that there was no desire to redistribute wealth, but it was intended and it would be insisted upon that in the future wealth should contribute its equitable share toward the support of the government. Senator Teller, in repelling the accusations of Senator Aldrich to the effect that the advocates of the tax favored the redistribution of property, said: “It had always been defended upon the ground that it was an equitable distribution of the taxes, and that the men who had the wealth of the country should pay in proportion as they call upon the government for protection and preservation. It has been asserted here and it has been

¹ *Congressional Record*, p. 7839.

asserted elsewhere that a tax upon consumption, and consumption alone, does not properly distribute the burdens of taxation among the people."¹ Mr. Hall thought the tax "opposed to socialism, for it would remedy the evils that socialism is crying out against, and thus it would take the wind out of the sails of the socialists."² Some color, however, seems to be lent to the charge by the largeness of the exemption. An exemption of \$4000, at first thought at least, seems indefensible. But it was believed that incomes of less than \$4000 would, in most cases, be expended on articles to be consumed, and would thus pay consumption taxes. To avoid double taxation those incomes should not pay the income tax. Said Senator Vest, who had charge of the bill in the Senate: "It was assumed in the House of Representatives, and we adopt now the same exemption, that the consumption of a man, say with six or seven in his family, in the course of the year will amount to about the sum which we have exempted."³ If it had been desired to shift the burdens onto the rich it would be expected that the radicals would have favored the highest exemption, but the contrary was the case. The populists of the House in the amendment which they offered proposed to exempt but \$2500.⁴ Senator Peffer, in the general-revenue bill which he introduced, exempted but \$2000,⁵ and in an amendment which he offered at a later time to the Wilson bill he reduced the exemption to \$1000.⁶ Senator Kyle also thought the exemption should be reduced to \$1000.⁷ In the Senate the exemption of \$4000 was vigorously attacked on the ground that merely enough to provide the necessities of life should be relieved from the operations of the tax. Senator Hill offered a different explanation of the largeness of the exemption from that advanced a moment ago by Senator Vest. He was of the opinion that the representatives of the southern states "took pains to fix the

¹ *Congressional Record*, p. 7883.

⁵ *Ibid.*, p. 4586.

² *Ibid.*, p. 4587.

⁶ *Ibid.*, p. 7839.

³ *Ibid.*, p. 8159.

⁷ *Ibid.*, p. 7881.

⁴ *Ibid.*, p. 4629.

exemption high enough so that their states would be compelled to contribute little or nothing."¹

Many representatives from the East regarded the tax as a blow aimed at their section of the country by the South and West, and the vote seems to support their claim. Senator Smith of New Jersey asserted that the income tax was forced upon the Committee on Ways and Means by the South and West.² The majority in the House for some reason refused to submit the income tax to a separate test, but insisted that the vote should be taken on the internal-revenue amendment to the tariff as a whole. Upon this general proposal the vote by geographical divisions was as follows: Southern states, 108; western states, 69; middle states, 3, and New England, 2. Thus 177 votes, out of a total of 182 votes in favor of the motion, were cast by representatives coming from the South and West.³ "The tax could not be regarded as legislation aimed at a section," said Mr. Bryan, "for the rate of taxation is the same on every income over \$4000, whether its possessor lives upon the Atlantic coast, in the Mississippi valley or on the Pacific slope."⁴ "It is as general," said Mr. Tarsney, "as the scope and operation of its provisions. It operates upon a condition wherever that condition exists."⁵

¹ *Congressional Record*, p. 7823.

On June 23d, Senator Hill introduced an amendment proposing the exemption of \$1000, which was rejected by the decisive vote of 18 to 42, with 25 senators not voting. Whereupon he offered an amendment providing for the exemption of \$2000, which was rejected by a vote of 26 to 38, 21 members neither approving nor disapproving. Not yet discouraged he presented another amendment which proposed the exemption of \$2500, which was also lost. The vote stood 25 for and 38 against, 22 members remaining silent. As he regarded an exemption of anything less than \$4000 an improvement he offered an amendment which would exempt \$3000. This amendment was thrown out by a vote of 30 to 38, 17 senators refraining from voting.—*Ibid.*, p. 7965-68.

² *Ibid.*, p. 4654.

⁴ *Ibid.*, p. 1918.

³ *Ibid.*, p. 4654.

⁵ *Ibid.*, p. 2308.

In replying to an assertion made by Senator Hill, Senator Peffer read an extract from the *New York World*, as follows: "Suppose New York would pay 30 per cent. of the total income tax. What of it? That would simply mean that New York is fortunate enough to have 30 per cent. of the people with incomes of \$4000 and over. Should they be exempt because they live in New York? The income tax is based upon ability to pay . . . Locality has nothing to do with it."—*Ibid.*, p. 4586.

In order that the law might be properly administered the officers were given power to investigate should fraud be suspected. The tax was on this account violently denounced as inquisitorial, un-American and un-democratic. "It does violence," said Mr. Hendrix of New York, "to one of the cherished rights of citizenship in a free republic—the right of complete non-interference."¹ "An income tax is objectionable because from its very nature it must be inquisitorial in its imposition and collection," said Senator Hill.² The advocates of the tax admitted that it might be inquisitorial, but this they maintained was true of all taxes, and particularly of the tariff, internal-revenue and the personal-property taxes of the states. Mr. Hall held that there could be no greater system of espionage than that now carried on by the deputy marshals in the employment of the internal-revenue service.³ "Dishonest persons," said Mr. Tarsney, "have no right to complain of measures providing for the detection of dishonesty, and honest men will not complain of such measures."⁴ When we were examining the bases of taxation, that of the corporation tax was postponed, as it was thought best to consider it by itself. It was also desired to treat the taxation of incomes of less than \$4000 derived from corporate investments at the same time, because these two subjects were intimately connected in the debates. While the bill was under discussion in the House, Mr. Bryan, a member of the Committee on Ways and Means, stated that the committee had been led to recommend the tax upon corporations for several reasons, but that he would merely present two of the most important—immunity and special privilege.⁵ The liability of the stockholder, said he, is limited, while, as a general thing, the entire property of the individual is liable for his debts; corporations also enjoy certain privileges and franchises, some are given the right of eminent domain, while others, such as street-car companies, are given the right to use the streets. Corporations also occupy the time and

¹ *Congressional Record*, p. 2606.

⁴ *Ibid.*, p. 2309.

² *Ibid.*, p. 4348.

⁵ *Ibid.*, p. 1918.

³ *Ibid.*, p. 1886.

attention of the federal courts and enjoy the protection of the federal government, and, as they do not ordinarily pay taxes, it was thought justifiable to impose a light tax upon them. The committee, said Mr. Bryan, is not hostile to corporations, but it believed that they should not enjoy special privileges.¹

The proposition to tax the entire incomes of corporations was warmly debated. Such taxation, it was maintained, would place corporations at a disadvantage as compared with individuals and partnerships. Senators Hill, Allison and Hoar labored hard to secure the total exemption of small corporations from the operation of the law. They held that, in many cases, the income of the individual stockholders in the small corporations would not reach \$4000, and that, therefore, they should not be taxed. If they were taxed they would be heavily handicapped in the race with those who were not doing business under corporate form. And it was also pointed out that there are many small stockholders in large corporations and it would be unfair to tax them, as they could not deduct the amount upon which the corporation had advanced the tax from their total income, which could be done by those having large incomes, for the total income of members of the former class would not reach \$4000. The tax upon the small stockholder was therefore regarded as unfair, as the tax affected him whether his total income reached \$4000 or not. Senator Vest, who had charge of the income-tax sections in the Senate, in replying to these objections declared that individuals paid consumption taxes but that corporations did not, and that, in addition, corporations received extraordinary corporate privileges as a gift from the government.² "We treat the corporation," continued the Senator, "as a legal entity, just as we treat the individual. We say to every corporation in the United States, 'You pay no tariff tax as does the individual citizen, but you shall pay the 2 per cent. which we put upon

¹ *Congressional Record*, p. 1918.

² The argument that a federal tax might be imposed upon incomes from corporate investments was not regarded by the opposition as of much validity, as the valuable franchises were generally granted by state authority and not by the federal government.

the citizen on account of the protection given to his property.' We apply the same rule to the corporation, leaving out the exemption, because, of course, there is no consumption by the corporation as there is by the individual. This is the theory of the bill."¹

Our income tax is not only what it purports to be, but it is also a gift and inheritance tax, for gifts and inheritances are treated as income. The proposal to consider legacies and donations as income and to tax them accordingly aroused the greatest opposition. It was asserted that inheritances were not properly income and should therefore not be treated as such, and that a rate of 2 per cent. was too high in case the succession were direct. Transfers of property very frequently are merely technical, as from man to wife; these, it was contended, should not be taxed at all. If technical transfers and gifts were not taxed, Senator Vest was of the opinion that the aim of the inheritance tax would be defeated, for property would be given away before death for the express purpose of avoiding the payment of the tax.² Senator Hoar proposed to make the exemption so large that small properties might escape the tax, but to this Senator Vest objected, for such property was not acquired by the "sweat of the face," but simply by virtue of relationship or good feeling.³ By the imposition of a gift and inheritance tax the federal government, it was urged, would encroach upon the domain of state taxation and would deprive the states of a resource upon which they were beginning to find it very necessary to draw.

A great deal of discussion was called forth by the exemption from the operation of the tax of inheritances of real estate. It was insisted that if inheritances of personalty were to be taxed realty should also be taxed. Senator Vest fell back from one position to another, but finally took the ground that inheritances of land could not constitutionally be taxed except by the rule of apportionment.

¹ *Congressional Record*, p. 8159.

³ *Ibid.*, p. 7970.

² *Ibid.*, p. 7970.

In reply it was contended that Congress had the power to impose an inheritance tax on real estate and had done so under former acts and that these acts were upheld by the supreme court in the case of *Scholey vs. Rew*, the court holding that the succession tax imposed by the Acts of June 30 and July 13, 1866, on every devolution of the title of any real estate was not a direct tax within the contemplation of the constitution but an impost or excise. It is therefore rather hard to understand why Senator Vest should have opposed the inclusion of real estate.

A reading of the debates must convince one that but little progress has been made during the last thirty years by our legislators in the science of taxation. The Act of 1894 is but a slavish imitation of the income-tax acts of the war period, particularly that of the year 1867. The imperfections and crudities of the earlier acts are repeated in the new act. No distinction is made between incomes derived from personal exertion and those coming from invested wealth, and gifts and inheritances are treated precisely as income. But these imperfections pale into insignificance in comparison with the faulty method of assessment which was adopted. The principle of self-assessment is again relied upon, which of course opens wide the doors to fraud and evasion. These faults, far-reaching in their nature, and numerous others of lesser importance have been used by the opponents of the tax to discredit the taxation of incomes in general, and have probably been employed so effectively that the experiment will not be tried again for some years to come.

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